

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT, IN AND FOR
DAVIS COUNTY, STATE OF UTAH

J. S. CLARK, H. D. CLARK, - 661-2045
E. B. CLARK, A. L. CLARK, - 661-2424
S. E. CLARK, ORION R. CLARK - 661-2424
and L. W. ROBINSON,

31-3841

Plaintiffs,
vs.

AMENDED
DECREE

NORTH COTTONWOOD IRRIGATION
AND WATER COMPANY, of Farm-
ington, a corporation,

Defendant.

This cause coming on regularly for hearing on the 24th day of September, 1939, at Farmington City, Davis County, State of Utah, before the Honorable George E. Barker, Judge of the above entitled Court, the plaintiffs appearing by their attorneys, Messrs. Henry D. Doyle and Lynn S. Richards, and the defendant appearing by its attorneys, Messrs. Richards and Richards, and Richards and Mitchell, and all of the parties having adduced their evidence, both oral and documentary, in support of the issues raised by the complaints of the plaintiffs and the answer and counter claim of the defendant, and the reply and answer to counter claim of plaintiffs, and the latter having been fully argued by counsel for the respective parties, and the Court, being fully advised in the premises, on May 3rd, 1939, made, and on May 5th, 1939 filed herein Findings of Fact, Conclusions of Law and Decree, thereon finding and adjudging the issues in said cause in favor of the plaintiffs and against the defendant;

That thereafter an appeal was taken by the defendant from the Judgment and Decree of the Court so entered pursuant to such Findings of Fact and Conclusions of Law to the Supreme Court of the State of Utah and said cause theronfter was fully argued and submitted to said Court for its decision by the respective parties hereto and said Supreme Court has made and entered its decision, Judgment and opinion directing this Court to amend the said findings

of Fact, Conclusions of Law and Decree to conform to the views expressed in said opinion, and this Court having heretofore made and entered its amended Findings of Fact and Conclusions of Law,

NOW, THEREFORE, by virtue of the law and the premises,
IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I.

That the defendant is and it is hereby decreed to be in control of, with right to regulate and distribute to its stockholders, the seepage and drainage waters which find their way into the North Cottonwood creek above the intake of the Richards-Snelman-Van Fleet ditch in Farmington City, Davis County, for the sole use and benefit of its stockholders.

II.

That the plaintiffs are and they are hereby decreed to be the sole and exclusive owners of the right to the use of all of the waters which rise, seep and drain into the bed or natural channel of the North Cottonwood creek above plaintiffs' points of diversion and below the intake of the Richards-Snelman-Van Fleet ditch located in Farmington City, Davis County, State of Utah, during the entire low water season of each and every year, which said low water season commences with the diversion of all of the waters of the North Cottonwood creek flowing in the natural channel thereof from North Cottonwood Canyon at points along the natural channel of said creek, above the crossing of said creek with the said State Highway; that is to say, when all of the waters flowing in the natural channel of North Cottonwood Creek from North Cottonwood Canyon are diverted into the ditches of the defendant at defendant's points of diversion as now established, above the crossing of said creek with said State Highway, and ending with the termination of the irrigation season in the fall of each year, whenever said water so rising in the bed of said creek is not augmented by defendant by water, the right to the use of which is in the defendant company, in an amount equal to or greater than the amount of such seepage and drainage water.

III.

That the right of the plaintiffs to the use of said waters as aforesaid, be and the same is hereby forever absolutely quieted against any and all claim or claims, right or rights, title or titles, and interest or interests of the defendant.

IV.

That the temporary injunction heretofore granted herein be and the same is hereby made permanent as to all waters, the right of the plaintiff to the use of which is hereby quieted, and as to all other waters said temporary injunction is hereby dissolved.

V.

That neither party shall recover costs against the other, either herein or in the Supreme Court.

Dated this 14 day of January, A.D., 1933.

District Judge.

Received copy of the foregoing Amended Decree this _____
day of January, 1933.

Attorneys for Defendant.